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ROBERT BROOME, Appellant)	
)	
and)	Docket No. 04-93
)	Issued: February 23, 2004
OFFICE OF PERSONNEL MANAGEMENT,)	
Washington, DC, Employer)	
)	

Case Submitted on the Record

Before:
ALEC J. KOROMILAS, Chairman
COLLEEN DUFFY KIKO, Member
MICHAEL E. GROOM, Alternate Member

On October 6, 2003 appellant filed a timely appeal from a September 24, 2003 merit decision of the Office of Workers' Compensation Programs. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

The issue is whether appellant has established that he sustained a low back condition or any disability from employment for any date other than May 10, 2001, due to his May 7, 2001 employment injury.

In response to the Office's request for further factual and medical information, appellant submitted a statement received by the Office on September 10, 2002. Appellant related that on May 7, 2001 he fell down four stairs onto his knees in the lobby of the employing establishment.

He noted that he had reported the incident to the guard on duty and to his supervisor. Appellant went to the emergency room for x-rays but, after waiting many hours, left the emergency room on the advice of a nurse. Appellant stated that he remained at home for one week and then felt better, until one day his body stiffened such that he was unable to move. Appellant related that he had to use crutches to walk and take narcotics for pain management.

Appellant submitted an emergency room report dated May 10, 2001 regarding his treatment on that date for bilateral knee pain due to a fall down the stairs. A physician diagnosed bilateral knee contusions and noted that appellant left prior to discharge. The physician indicated that appellant should not work on May 10, 2001 but could resume his regular employment on May 11, 2001.

By decision dated September 20, 2002, the Office denied appellant's claim on the grounds that he did not establish fact of injury. The Office found that appellant had established the occurrence of the claimed May 7, 2001 employment incident but failed to establish a diagnosed condition resulting from the employment incident.

Appellant requested a hearing before an Office hearing representative. He submitted an undated medical report, received by the Office on January 31, 2003 from Dr. Peter F. Stengel, a Board-certified internist, who indicated that appellant verbally related a history of falling down stairs onto his knees in the lobby of the employing establishment on May 7, 2001. He stated that he had treated appellant "for chronic low back pain/lumbar strain as well as bilateral knee contusions" and noted that x-rays of the knees and lumbar spine were normal.¹

Dr. Stengel completed questions on a form from the Office regarding appellant's injury. He diagnosed low back pain, lumbar strain and a bilateral knee contusion due to appellant's injury and found that he was partially disabled for two weeks.

A hearing was held on April 30, 2003. At the hearing, appellant related that he felt better about two and a half weeks after his May 7, 2001 fall in the lobby. However, appellant stated that, in September 2001, he "was just walking and I just felt trouble where I could [not] walk again." Appellant noted that he experienced pain down the back of his leg.

In a decision dated September 24, 2003, a hearing representative affirmed the Office's September 20, 2002 decision, as modified, to reflect that appellant sustained bilateral knee contusions due to the May 7, 2001 employment incident. The hearing representative found, however, that appellant had not established that he sustained a low back condition or disability from employment on any day other than May 10, 2001, due to the accepted May 7, 2001 employment injury.

¹ In a medical report dated August 20, 2003, Dr. Stengel treated appellant for his blood pressure and noted complaints of low back pain.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act² has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition, for which compensation is claimed are causally related to the employment injury.³ An award of compensation may not be based on surmise, conjecture, speculation or upon appellant's own belief that there is causal relationship between his claimed condition and his employment.⁴ To establish causal relationship, appellant must submit a physician's report, in which the physician reviews the employment factors identified by appellant as causing his condition and, taking these factors into consideration as well as findings upon examination of appellant and his medical history, state whether the employment injury caused or aggravated appellant's diagnosed conditions and present medical rationale in support of his or her opinion.⁵

ANALYSIS

The Office accepted that appellant sustained bilateral knee contusions due to his fall down the stairs on May 7, 2001. The Office further found that appellant was disabled on May 10, 2001 due to the accepted employment injury. Appellant has the burden of proof to establish that the employment injury caused any other condition or period of disability through the submission of rationalized medical opinion evidence.

The Board finds that the medical evidence is insufficient to establish that appellant sustained any condition other than bilateral knee contusions or any period of disability after May 10, 2001. A physician at the emergency room treated appellant on May 10, 2001 and diagnosed bilateral knee contusions.⁶ He found that appellant should not work on May 10, 2001 but could resume his regular employment the following day. As the physician did not diagnose a back condition or period of disability other than May 10, 2001, due to the accepted employment injury, his report is insufficient to establish disability beyond that day.

In an undated medical report, Dr. Stengel, a Board-certified internist and appellant's attending physician, indicated that he was treating appellant for low back pain, lumbar strain and bilateral knee contusions. He noted that appellant related a history of falling down stairs and landing on his knees in the lobby of the employing establishment on May 7, 2001. He further indicated that appellant's x-rays of the knees and lumbar spine were normal. Dr. Stengel, however, did not specifically address the cause of the diagnosed conditions or relate the

² 5 U.S.C. §§ 8101-8193.

³ *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁴ *Donald W. Long*, 41 ECAB 142 (1989).

⁵ *Id.*

⁶ The name of the physician is not legible.

conditions to appellant's May 7, 2001 employment injury and thus his report is of little probative value.⁷

In a report dated August 20, 2003, Dr. Stengel diagnosed low back pain. However, as he did not discuss the cause of appellant's pain, his report is of little probative value.⁸ Further, the Board has held that a diagnosis of "pain" does not constitute the basis for the payment of compensation.⁹

In response to questions posed by the Office, Dr. Stengel diagnosed low back pain, lumbar strain and a bilateral knee contusion, due to appellant's injury and opined that he was partially disabled for an unspecified two-week period. Dr. Stengel, however, does not provide any findings on physical examination or rationale for his opinion. In particular, Dr. Stengel did not explain how or why appellant's May 7, 2001 employment injury, accepted for bilateral knee contusions, caused the sudden onset of a back condition several months later. The opinion of a physician supporting causal relationship must be based on a complete factual and medical background, supported by affirmative evidence, address the specific factual and medical evidence of record and provide medical rationale explaining the nature of the relationship between the diagnosed condition and the established incident or factor of employment.¹⁰ Appellant failed to submit such evidence in this case and, consequently, failed to discharge his burden of proof.

CONCLUSION

The Board finds that appellant has not established that he sustained a low back condition or disability for any date other than May 10, 2001, due to the May 7, 2001 employment injury.

⁷ *Linda I. Sprague*, 48 ECAB 386 (1997) (medical evidence that does not offer any opinion regarding the cause of an employee's condition is of diminished probative value on the issue of causal relationship).

⁸ *Id.*

⁹ *John L. Clark*, 32 ECAB 1618 (1981).

¹⁰ *Lee R. Haywood*, 48 ECAB 145 (1996).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated September 24, 2003 is affirmed.

Issued: February 23, 2004
Washington, DC

Alec J. Koromilas
Chairman

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member